

AMENDED IN ASSEMBLY JUNE 10, 2002

AMENDED IN SENATE MAY 8, 2002

AMENDED IN SENATE APRIL 29, 2002

SENATE BILL

No. 1798

Introduced by Senator Ackerman

February 22, 2002

An act to amend Section 17400.5 of the Family Code, to amend Sections 11372, 11479, 11479.1, and 11479.5 of the Health and Safety Code, to amend Section 1698 of the Labor Code, to amend Sections 88, 182, 289, 374a, 471, 487, 504, 599b, 653t, 667.6, 803, 1042, 1203.1bb, 1203.72, 1203.73, 1524.1, 2933.1, 5058, 11051, 11460, 12280, 13823.11, 13861, 13897.2, and 14202 of, and to repeal Sections 969c and 969d of, the Penal Code, to amend Sections 13377 and 15302 of the Vehicle Code, and to amend Section 1732.6 of the Welfare and Institutions Code, relating to public safety.

LEGISLATIVE COUNSEL'S DIGEST

SB 1798, as amended, Ackerman. Crime.

Existing law contains numerous provisions pertaining to crime and the implementation of the criminal laws of this state.

This bill would make numerous, nonsubstantive changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 17400.5 of the Family Code is amended to read:

17400.5. If an obligor has an ongoing child support order being enforced by a local child support agency pursuant to Title IV-D of the Social Security Act and the obligor is disabled, meets the SSI resource test, and is receiving Supplemental Security Income/State Supplemental Payments (SSI/SSP) or, but for excess income as described in Section 416.1100 et seq. of Part 416 of Title 20 of the Code of Federal Regulations, would be eligible to receive as SSI/SSP, pursuant to Section 12200 of the Welfare and Institutions Code, and the obligor has supplied the local child support agency with proof of his or her eligibility for, and, if applicable, receipt of, SSI/SSP or Social Security Disability Insurance benefits, then the local child support agency shall prepare and file a motion to modify the support obligation within 30 days of receipt of verification from the noncustodial parent or any other source of the receipt of SSI/SSP or Social Security Disability Insurance benefits. The local child support agency shall serve the motion on both the noncustodial parent and custodial person and any modification of the support order entered pursuant to the motion shall be effective as provided in Section 3653 of the Family Code.

SEC. 2. Section 11372 of the Health and Safety Code is amended to read:

11372. (a) In addition to the term of imprisonment provided by law for persons convicted of violating Section 11350, 11351, 11351.5, 11352, 11353, 11355, 11359, 11360, or 11361, the trial court may impose a fine not exceeding twenty thousand dollars (\$20,000) for each offense. In no event shall a fine be levied in lieu of or in substitution for the term of imprisonment provided by law for any of these offenses.

(b) Any person receiving an additional term pursuant to paragraph (1) of subdivision (a) of Section 11370.4, may, in addition, be fined by an amount not exceeding one million dollars (\$1,000,000) for each offense.

(c) Any person receiving an additional term pursuant to paragraph (2) of subdivision (a) of Section 11370.4, may, in

1 addition, be fined by an amount not to exceed four million dollars
2 (\$4,000,000) for each offense.

3 (d) Any person receiving an additional term pursuant to
4 paragraph (3) of subdivision (a) of Section 11370.4, may, in
5 addition, be fined by an amount not to exceed eight million dollars
6 (\$8,000,000) for each offense.

7 (e) The court shall make a finding, prior to the imposition of the
8 fines authorized by subdivisions (b) to (e), inclusive, that there is
9 a reasonable expectation that the fine, or a substantial portion
10 thereof, could be collected within a reasonable period of time,
11 taking into consideration the defendant's income, earning
12 capacity, and financial resources.

13 SEC. 3. Section 11479 of the Health and Safety Code is
14 amended to read:

15 11479. Notwithstanding Sections 11473 and 11473.5, at any
16 time after seizure by a law enforcement agency of a suspected
17 controlled substance, that amount in excess of 10 pounds in gross
18 weight may be destroyed without a court order by the chief of the
19 law enforcement agency or a designated subordinate. Destruction
20 shall not take place pursuant to this section until all of the
21 following requirements are satisfied:

22 (a) At least five random and representative samples have been
23 taken, for evidentiary purposes, from the total amount of suspected
24 controlled substances to be destroyed. These samples shall be in
25 addition to the 10 pounds required above. When the suspected
26 controlled substance consists of growing or harvested marijuana
27 plants, at least one 10 pound sample (which may include stalks,
28 branches, or leaves) and five representative samples consisting of
29 leaves or buds shall be retained for evidentiary purposes from the
30 total amount of suspected controlled substances to be destroyed.

31 (b) Photographs have been taken which reasonably
32 demonstrate the total amount of the suspected controlled substance
33 to be destroyed.

34 (c) The gross weight of the suspected controlled substance has
35 been determined, either by actually weighing the suspected
36 controlled substance or by estimating that weight after
37 dimensional measurement of the total suspected controlled
38 substance.

39 (d) The chief of the law enforcement agency has determined
40 that it is not reasonably possible to preserve the suspected

1 controlled substance in place, or to remove the suspected
2 controlled substance to another location. In making this
3 determination, the difficulty of transporting and storing the
4 suspected controlled substance to another site and the storage
5 facilities may be taken into consideration.

6 Subsequent to any destruction of a suspected controlled
7 substance pursuant to this section, an affidavit shall be filed within
8 30 days in the court which has jurisdiction over any pending
9 criminal proceedings pertaining to that suspected controlled
10 substance, reciting the applicable information required by
11 subdivisions (a), (b), (c), and (d) together with information
12 establishing the location of the suspected controlled substance,
13 and specifying the date and time of the destruction. In the event
14 that there are no criminal proceedings pending which pertain to
15 that suspected controlled substance, the affidavit may be filed in
16 any court within the county which would have jurisdiction over a
17 person against whom those criminal charges might be filed.

18 SEC. 4. Section 11479.1 of the Health and Safety Code is
19 amended to read:

20 11479.1. (a) Notwithstanding the provisions of Sections
21 11473, 11473.5, and 11479, at any time after seizure by a law
22 enforcement agency and identification by a forensic chemist or
23 criminalist of phencyclidine, or an analog thereof, that amount in
24 excess of one gram of a crystalline substance containing
25 phencyclidine or its analog, 10 milliliters of a liquid substance
26 containing phencyclidine or its analog, two grams of plant material
27 containing phencyclidine or its analog, or five hand-rolled
28 cigarettes treated with phencyclidine or its analog, may be
29 destroyed without a court order by the chief of the law enforcement
30 agency or a designated subordinate. Destruction shall not take
31 place pursuant to this section until all of the following
32 requirements are satisfied:

33 (1) At least one gram of a crystalline substance containing
34 phencyclidine or its analog, 10 milliliters of a liquid substance
35 containing phencyclidine or its analog, two grams of plant material
36 containing phencyclidine or its analog, or five hand-rolled
37 cigarettes treated with phencyclidine or its analog have been taken
38 as samples from the phencyclidine or analog to be destroyed.



(2) Photographs have been taken which reasonably demonstrate the total amount of phencyclidine or its analog to be destroyed.

(3) The gross weight of the phencyclidine or its analog has been determined by actually weighing the phencyclidine or analog.

(b) Subsequent to any destruction of phencyclidine or its analog, an affidavit shall be filed within 30 days in the court which has jurisdiction over any pending criminal proceedings pertaining to that phencyclidine or its analog, reciting the applicable information required by paragraphs (1), (2), and (3) of subdivision (a), together with information establishing the location of the phencyclidine or analog and specifying the date and time of the destruction. In the event that there are no criminal proceedings pending which pertain to that phencyclidine or analog, the affidavit may be filed in any court within the county which would have jurisdiction over a person against whom these criminal charges might be filed.

SEC. 5. Section 11479.5 of the Health and Safety Code is amended to read:

11479.5. Notwithstanding Sections 11473 and 11473.5, at any time after seizure by a law enforcement agency of a suspected hazardous chemical believed to have been used or intended to have been used in the unlawful manufacture of controlled substances, that amount in excess of one fluid ounce if liquid, or one avoirdupois ounce if solid, of each different type of suspected hazardous chemical and its container, may be disposed of without a court order by the seizing agency. For the purposes of this section, "hazardous chemical" means any material that is believed by the chief of the law enforcement agency to be toxic, carcinogenic, explosive, corrosive, or flammable, and that is believed by the chief of the law enforcement agency to have been used or intended to have been used in the unlawful manufacture of controlled substances.

Destruction pursuant to this section of suspected hazardous chemicals or suspected hazardous chemicals and controlled substances in combination, shall not take place until all of the following requirements are met:

(a) At least a one ounce sample is taken from each different type of suspected hazardous chemical to be destroyed.

1 (b) At least a one ounce sample has been taken from each
2 container of a mixture of a suspected hazardous chemical with a
3 suspected controlled substance.

4 (c) Photographs have been taken which reasonably
5 demonstrate the total amount of suspected controlled substances
6 and suspected hazardous chemicals to be destroyed.

7 (d) The gross weight or volume of the suspected hazardous
8 chemical seized has been determined.

9 Subsequent to any disposal of a suspected hazardous chemical
10 and its container pursuant to this section, the law enforcement
11 agency involved shall maintain records concerning the details of
12 its compliance with, and reciting the applicable information
13 required by subdivisions (a), (b), (c), and (d), together with the
14 information establishing the location of the suspected hazardous
15 chemical and its container, and specifying the date and time of the
16 disposal.

17 Subsequent to any destruction of a suspected controlled
18 substance in combination with a hazardous chemical pursuant to
19 this section, an affidavit shall be filed within 30 days in the court
20 which has jurisdiction over any pending criminal proceedings
21 pertaining to that suspected controlled substance, reciting the
22 applicable information required by subdivisions (a), (b), (c), and
23 (d).

24 A law enforcement agency responsible for the disposal of any
25 hazardous chemical shall comply with the provisions of Chapter
26 6.5 (commencing with Section 25100) of Division 20 of the Health
27 and Safety Code, as well as all applicable state and federal statutes
28 and regulations.

29 SEC. 6. Section 1698 of the Labor Code is amended to read:

30 1698. All fines collected for violations of this chapter shall be
31 paid into the Farmworker Remedial Account and shall be
32 available, upon appropriation, for purposes of this chapter. Of the
33 moneys collected for licenses issued pursuant to this chapter, fifty
34 dollars (\$50) of each annual license fee shall be deposited in the
35 Farmworker Remedial Account pursuant to paragraph (4) of
36 subdivision (a) of Section 1684, three hundred fifty dollars (\$350)
37 of each annual license fee shall be expended by the Labor
38 Commissioner to fund the Farm Labor Contractor Enforcement
39 Unit and the Farm Labor Contractor License Verification Unit,

1 both within the department, and the remaining money shall be paid
2 into the State Treasury and credited to the General Fund.

3 SEC. 7. Section 88 of the Penal Code is amended to read:

4 88. Every Member of the Legislature convicted of any crime
5 defined in this title, in addition to the punishment prescribed,
6 forfeits his or her office and is forever disqualified from holding
7 any office in this state.

8 SEC. 8. Section 182 of the Penal Code is amended to read:

9 182. (a) If two or more persons conspire:

10 (1) To commit any crime.

11 (2) Falsely and maliciously to indict another for any crime, or
12 to procure another to be charged or arrested for any crime.

13 (3) Falsely to move or maintain any suit, action, or proceeding.

14 (4) To cheat and defraud any person of any property, by any
15 means which are in themselves criminal, or to obtain money or
16 property by false pretenses or by false promises with fraudulent
17 intent not to perform those promises.

18 (5) To commit any act injurious to the public health, to public
19 morals, or to pervert or obstruct justice, or the due administration
20 of the laws.

21 (6) To commit any crime against the person of the President or
22 Vice President of the United States, the Governor of any state or
23 territory, any United States justice or judge, or the secretary of any
24 of the executive departments of the United States.

25 They are punishable as follows:

26 When they conspire to commit any crime against the person of
27 any official specified in paragraph (6), they are guilty of a felony
28 and are punishable by imprisonment in the state prison for five,
29 seven, or nine years.

30 When they conspire to commit any other felony, they shall be
31 punishable in the same manner and to the same extent as is
32 provided for the punishment of that felony. If the felony is one for
33 which different punishments are prescribed for different degrees,
34 the jury or court which finds the defendant guilty thereof shall
35 determine the degree of the felony the defendant conspired to
36 commit. If the degree is not so determined, the punishment for
37 conspiracy to commit the felony shall be that prescribed for the
38 lesser degree, except in the case of conspiracy to commit murder,
39 in which case the punishment shall be that prescribed for murder
40 in the first degree.

1 If the felony is conspiracy to commit two or more felonies which
2 have different punishments and the commission of those felonies
3 constitute but one offense of conspiracy, the penalty shall be that
4 prescribed for the felony which has the greater maximum term.

5 When they conspire to do an act described in paragraph (4), they
6 shall be punishable by imprisonment in the state prison, or by
7 imprisonment in the county jail for not more than one year, or by
8 a fine not exceeding ten thousand dollars (\$10,000), or by both that
9 imprisonment and fine.

10 When they conspire to do any of the other acts described in this
11 section, they shall be punishable by imprisonment in the county
12 jail for not more than one year, or in the state prison, or by a fine
13 not exceeding ten thousand dollars (\$10,000), or by both that
14 imprisonment and fine.

15 All cases of conspiracy may be prosecuted and tried in the
16 superior court of any county in which any overt act tending to
17 effect the conspiracy shall be done.

18 (b) Upon a trial for conspiracy, in a case where an overt act is
19 necessary to constitute the offense, the defendant cannot be
20 convicted unless one or more overt acts are expressly alleged in the
21 indictment or information, nor unless one of the acts alleged is
22 proved; but other overt acts not alleged may be given in evidence.

23 SEC. 9. Section 289 of the Penal Code is amended to read:

24 289. (a) (1) Any person who commits an act of sexual
25 penetration when the act is accomplished against the victim's will
26 by means of force, violence, duress, menace, or fear of immediate
27 and unlawful bodily injury on the victim or another person shall
28 be punished by imprisonment in the state prison for three, six, or
29 eight years.

30 (2) Any person who commits an act of sexual penetration when
31 the act is accomplished against the victim's will by threatening to
32 retaliate in the future against the victim or any other person, and
33 there is a reasonable possibility that the perpetrator will execute
34 the threat, shall be punished by imprisonment in the state prison
35 for three, six, or eight years.

36 (b) Except as provided in subdivision (c), any person who
37 commits an act of sexual penetration, and the victim is at the time
38 incapable, because of a mental disorder or developmental or
39 physical disability, of giving legal consent, and this is known or
40 reasonably should be known to the person committing the act or

1 causing the act to be committed, shall be punished by
2 imprisonment in the state prison for three, six, or eight years.
3 Notwithstanding the appointment of a conservator with respect to
4 the victim pursuant to the provisions of the
5 Lanterman-Petris-Short Act (Part 1 (commencing with Section
6 5000) of Division 5 of the Welfare and Institutions Code), the
7 prosecuting attorney shall prove, as an element of the crime, that
8 a mental disorder or developmental or physical disability rendered
9 the alleged victim incapable of giving legal consent.

10 (c) Any person who commits an act of sexual penetration, and
11 the victim is at the time incapable, because of a mental disorder or
12 developmental or physical disability, of giving legal consent, and
13 this is known or reasonably should be known to the person
14 committing the act or causing the act to be committed and both the
15 defendant and the victim are at the time confined in a state hospital
16 for the care and treatment of the mentally disordered or in any
17 other public or private facility for the care and treatment of the
18 mentally disordered approved by a county mental health director,
19 shall be punished by imprisonment in the state prison, or in a
20 county jail for a period of not more than one year. Notwithstanding
21 the existence of a conservatorship pursuant to the provisions of the
22 Lanterman-Petris-Short Act (Part 1 (commencing with Section
23 5000) of Division 5 of the Welfare and Institutions Code), the
24 prosecuting attorney shall prove, as an element of the crime, that
25 a mental disorder or developmental or physical disability rendered
26 the alleged victim incapable of giving legal consent.

27 (d) Any person who commits an act of sexual penetration, and
28 the victim is at the time unconscious of the nature of the act and
29 this is known to the person committing the act or causing the act
30 to be committed, shall be punished by imprisonment in the state
31 prison for three, six, or eight years. As used in this subdivision,
32 “unconscious of the nature of the act” means incapable of
33 resisting because the victim meets one of the following conditions:

34 (1) Was unconscious or asleep.

35 (2) Was not aware, knowing, perceiving, or cognizant that the
36 act occurred.

37 (3) Was not aware, knowing, perceiving, or cognizant of the
38 essential characteristics of the act due to the perpetrator’s fraud in
39 fact.

(e) Any person who commits an act of sexual penetration when the victim is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known by the accused, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

(f) Any person who commits an act of sexual penetration when the victim submits under the belief that the person committing the act or causing the act to be committed is the victim's spouse, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

(g) Any person who commits an act of sexual penetration when the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

As used in this subdivision, "public official" means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

(h) Except as provided in Section 288, any person who participates in an act of sexual penetration with another person who is under 18 years of age shall be punished by imprisonment in the state prison or in the county jail for a period of not more than one year.

(i) Except as provided in Section 288, any person over the age of 21 years who participates in an act of sexual penetration with another person who is under 16 years of age shall be guilty of a felony.

(j) Any person who participates in an act of sexual penetration with another person who is under 14 years of age and who is more than 10 years younger than he or she shall be punished by imprisonment in the state prison for three, six, or eight years.

(k) As used in this section:

(1) "Sexual penetration" is the act of causing the penetration, however slight, of the genital or anal opening of any person or

1 causing another person to so penetrate the defendant's or another
2 person's genital or anal opening for the purpose of sexual arousal,
3 gratification, or abuse by any foreign object, substance,
4 instrument, or device, or by any unknown object.

5 (2) "Foreign object, substance, instrument, or device" shall
6 include any part of the body, except a sexual organ.

7 (3) "Unknown object" shall include any foreign object,
8 substance, instrument, or device, or any part of the body, including
9 a penis, when it is not known whether penetration was by a penis
10 or by a foreign object, substance, instrument, or device, or by any
11 other part of the body.

12 (l) As used in subdivision (a), "threatening to retaliate" means
13 a threat to kidnap or falsely imprison, or inflict extreme pain,
14 serious bodily injury or death.

15 (m) As used in this section, "victim" includes any person who
16 the defendant causes to penetrate the genital or anal opening of the
17 defendant or another person or whose genital or anal opening ~~are~~
18 is caused to be penetrated by the defendant or another person and
19 who otherwise qualifies as a victim under the requirements of this
20 section.

21 SEC. 10. Section 374a of the Penal Code is amended to read:

22 374a. Every person giving information leading to the arrest
23 and conviction of any person for a violation of Section 374.3 or
24 374c is entitled to a reward therefor.

25 The amount of the reward for each arrest and conviction shall
26 be 50 percent of the fine levied against and collected from the
27 person who violated Section 374.3 or 374c and shall be paid by the
28 court. If the reward is payable to two or more persons, it shall be
29 divided equally. The amount of collected fine to be paid under this
30 section shall be paid prior to any distribution of the fine that may
31 be prescribed by any other section, including Section 1463.9, with
32 respect to the same fine.

33 SEC. 11. Section 471 of the Penal Code is amended to read:

34 471. Every person who, with intent to defraud another, makes,
35 forges, or alters any entry in any book of records, or any instrument
36 purporting to be any record or return specified in Section 470, is
37 guilty of forgery.

38 SEC. 12. Section 487 of the Penal Code is amended to read:

39 487. Grand theft is theft committed in any of the following
40 cases:

1 (a) When the money, labor, or real or personal property taken
2 is of a value exceeding four hundred dollars (\$400), except as
3 provided in subdivision (b).

4 (b) Notwithstanding subdivision (a), grand theft is committed
5 in any of the following cases:

6 (1) (A) When domestic fowls, avocados, olives, citrus or
7 deciduous fruits, other fruits, vegetables, nuts, artichokes, or other
8 farm crops are taken of a value exceeding one hundred dollars
9 (\$100).

10 (B) For the purposes of establishing that the value of avocados
11 or citrus fruit under this paragraph exceeds one hundred dollars
12 (\$100), that value may be shown by the presentation of credible
13 evidence which establishes that on the day of the theft avocados or
14 citrus fruit of the same variety and weight exceeded one hundred
15 dollars (\$100) in wholesale value.

16 (2) When fish, shellfish, mollusks, crustaceans, kelp, algae, or
17 other aquacultural products are taken from a commercial or
18 research operation which is producing that product, of a value
19 exceeding one hundred dollars (\$100).

20 (3) Where the money, labor, or real or personal property is
21 taken by a servant, agent, or employee from his or her principal or
22 employer and aggregates four hundred dollars (\$400) or more in
23 any 12 consecutive month period.

24 (c) When the property is taken from the person of another.

25 (d) When the property taken is any of the following:

26 (1) An automobile, horse, mare, gelding, any bovine animal,
27 any caprine animal, mule, jack, jenny, sheep, lamb, hog, sow, boar,
28 gilt, barrow, or pig.

29 (2) A firearm.

30 (e) This section shall become operative on January 1, 1997.

31 SEC. 13. Section 504 of the Penal Code is amended to read:

32 504. Every officer of this state, or of any county, city, city and
33 county, or other municipal corporation or subdivision thereof, and
34 every deputy, clerk, or servant of that officer, and every officer,
35 director, trustee, clerk, servant, or agent of any association,
36 society, or corporation (public or private), who fraudulently
37 appropriates to any use or purpose not in the due and lawful
38 execution of that person's trust, any property in his or her
39 possession or under his or her control by virtue of that trust, or

1 secretes it with a fraudulent intent to appropriate it to that use or
2 purpose, is guilty of embezzlement.

3 SEC. 14. Section 599b of the Penal Code is amended to read:

4 599b. In this title, the word “animal” includes every dumb
5 creature; the words “torment,” “torture,” and “cruelty” include
6 every act, omission, or neglect whereby unnecessary or
7 unjustifiable physical pain or suffering is caused or permitted; and
8 the words “owner” and “person” include corporations as well as
9 individuals; and the knowledge and acts of any agent of, or person
10 employed by, a corporation in regard to animals transported,
11 owned, or employed by, or in the custody of, the corporation, must
12 be held to be the act and knowledge of the corporation as well as
13 the agent or employee.

14 SEC. 15. Section 653t of the Penal Code is amended to read:

15 653t. (a) A person commits a public offense if the person
16 knowingly and maliciously interrupts, disrupts, impedes, or
17 otherwise interferes with the transmission of a communication
18 over an amateur or a citizen’s band radio frequency, the purpose
19 of which communication is to inform or inquire about an
20 emergency.

21 (b) For purposes of this section, “emergency” means a
22 condition or circumstance in which an individual is or is
23 reasonably believed by the person transmitting the communication
24 to be in imminent danger of serious bodily injury, in which
25 property is or is reasonably believed by the person transmitting the
26 communication to be in imminent danger of extensive damage or
27 destruction, or in which that injury or destruction has occurred and
28 the person transmitting is attempting to summon assistance.

29 (c) A violation of subdivision (a) is a misdemeanor punishable
30 by a fine not to exceed one thousand dollars (\$1,000), by
31 imprisonment in a county jail not to exceed six months, or by both,
32 unless, as a result of the commission of the offense, serious bodily
33 injury or property loss in excess of ten thousand dollars (\$10,000)
34 occurs, in which event the offense is a felony.

35 (d) Any person who knowingly and maliciously interrupts,
36 disrupts, impedes, or otherwise interferes with the transmission of
37 an emergency communication over a public safety radio
38 frequency, when the offense results in serious bodily injury or
39 property loss in excess of ten thousand dollars (\$10,000), is guilty
40 of a felony.

1 SEC. 16. Section 667.6 of the Penal Code is amended to read:

2 667.6. (a) Any person who is found guilty of violating
3 paragraph (2), (3), (6), or (7) of subdivision (a) of Section 261,
4 paragraph (1), (4), or (5) of subdivision (a) of Section 262, Section
5 264.1, subdivision (b) of Section 288, Section 288.5 or
6 subdivision (a) of Section 289, of committing sodomy in violation
7 of subdivision (k) of Section 286, of committing oral copulation
8 in violation of subdivision (k) of Section 288a, or of committing
9 sodomy or oral copulation in violation of Section 286 or 288a by
10 force, violence, duress, menace, or fear of immediate and unlawful
11 bodily injury on the victim or another person who has been
12 convicted previously of any of those offenses shall receive a
13 five-year enhancement for each of those prior convictions
14 provided that no enhancement shall be imposed under this
15 subdivision for any conviction occurring prior to a period of 10
16 years in which the person remained free of both prison custody and
17 the commission of an offense which results in a felony conviction.
18 In addition to the five-year enhancement imposed under this
19 subdivision, the court also may impose a fine not to exceed twenty
20 thousand dollars (\$20,000) for anyone sentenced under these
21 provisions. The fine imposed and collected pursuant to this
22 subdivision shall be deposited in the Victim-Witness Assistance
23 Fund to be available for appropriation to fund child sexual
24 exploitation and child sexual abuse victim counseling centers and
25 prevention programs established pursuant to Section 13837.

26 (b) Any person convicted of an offense specified in subdivision
27 (a) who has served two or more prior prison terms as defined in
28 Section 667.5 for any offense specified in subdivision (a), shall
29 receive a 10-year enhancement for each of those prior terms
30 provided that no additional enhancement shall be imposed under
31 this subdivision for any prison term served prior to a period of 10
32 years in which the person remained free of both prison custody and
33 the commission of an offense which results in a felony conviction.
34 In addition to the 10-year enhancement imposed under this
35 subdivision, the court also may impose a fine not to exceed twenty
36 thousand dollars (\$20,000) for any person sentenced under this
37 subdivision. The fine imposed and collected pursuant to this
38 subdivision shall be deposited in the Victim-Witness Assistance
39 Fund to be available for appropriation to fund child sexual

1 exploitation and child sexual abuse victim counseling centers and
2 prevention programs established pursuant to Section 13837.

3 (c) In lieu of the term provided in Section 1170.1, a full,
4 separate, and consecutive term may be imposed for each violation
5 of Section 220, other than an assault with intent to commit
6 mayhem, provided that the person has been convicted previously
7 of violating Section 220 for an offense other than an assault with
8 intent to commit mayhem, paragraph (2), (3), (6), or (7) of
9 subdivision (a) of Section 261, paragraph (1), (4), or (5) of
10 subdivision (a) of Section 262, Section 264.1, subdivision (b) of
11 Section 288, Section 288.5 or subdivision (a) of Section 289, of
12 committing sodomy in violation of subdivision (k) of Section 286,
13 of committing oral copulation in violation of subdivision (k) of
14 Section 288a, or of committing sodomy or oral copulation in
15 violation of Section 286 or 288a by force, violence, duress,
16 menace, or fear of immediate and unlawful bodily injury on the
17 victim or another person whether or not the crimes were
18 committed during a single transaction. If the term is imposed
19 consecutively pursuant to this subdivision, it shall be served
20 consecutively to any other term of imprisonment, and shall
21 commence from the time the person otherwise would have been
22 released from imprisonment. The term shall not be included in any
23 determination pursuant to Section 1170.1. Any other term
24 imposed subsequent to that term shall not be merged therein but
25 shall commence at the time the person otherwise would have been
26 released from prison.

27 (d) A full, separate, and consecutive term shall be served for
28 each violation of Section 220, other than an assault with intent to
29 commit mayhem, provided that the person has been convicted
30 previously of violating Section 220 for an offense other than an
31 assault with intent to commit mayhem, paragraph (2), (3), (6), or
32 (7) of subdivision (a) of Section 261, paragraph (1), (4), or (5) of
33 subdivision (a) of Section 262, Section 264.1, subdivision (b) of
34 Section 288, subdivision (a) of Section 289, of committing
35 sodomy in violation of subdivision (k) of Section 286, of
36 committing oral copulation in violation of subdivision (k) of
37 Section 288a, or of committing sodomy or oral copulation in
38 violation of Section 286 or 288a by force, violence, duress,
39 menace, or fear of immediate and unlawful bodily injury on the

1 victim or another person if the crimes involve separate victims or
2 involve the same victim on separate occasions.

3 In determining whether crimes against a single victim were
4 committed on separate occasions under this subdivision, the court
5 shall consider whether, between the commission of one sex crime
6 and another, the defendant had a reasonable opportunity to reflect
7 upon his or her actions and nevertheless resumed sexually
8 assaultive behavior. Neither the duration of time between crimes,
9 nor whether or not the defendant lost or abandoned his or her
10 opportunity to attack, shall be, in and of itself, determinative on the
11 issue of whether the crimes in question occurred on separate
12 occasions.

13 The term shall be served consecutively to any other term of
14 imprisonment and shall commence from the time the person
15 otherwise would have been released from imprisonment. The term
16 shall not be included in any determination pursuant to Section
17 1170.1. Any other term imposed subsequent to that term shall not
18 be merged therein but shall commence at the time the person
19 otherwise would have been released from prison.

20 (e) If the court orders a fine to be imposed pursuant to
21 subdivision (a) or (b), the actual administrative cost of collecting
22 that fine, not to exceed 2 percent of the total amount paid, may be
23 paid into the general fund of the county treasury for the use and
24 benefit of the county.

25 SEC. 17. Section 803 of the Penal Code is amended to read:

26 803. (a) Except as provided in this section, a limitation of
27 time prescribed in this chapter is not tolled or extended for any
28 reason.

29 (b) No time during which prosecution of the same person for
30 the same conduct is pending in a court of this state is a part of a
31 limitation of time prescribed in this chapter.

32 (c) A limitation of time prescribed in this chapter does not
33 commence to run until the discovery of an offense described in this
34 subdivision. This subdivision applies to an offense punishable by
35 imprisonment in the state prison, a material element of which is
36 fraud or breach of a fiduciary obligation, the commission of the
37 crimes of theft or embezzlement upon an elder or dependent adult,
38 or the basis of which is misconduct in office by a public officer,
39 employee, or appointee, including, but not limited to, the
40 following offenses:



1 (1) Grand theft of any type, forgery, falsification of public
2 records, or acceptance of a bribe by a public official or a public
3 employee.

4 (2) A violation of Section 72, 118, 118a, 132, or 134.

5 (3) A violation of Section 25540, of any type, or Section 25541
6 of the Corporations Code.

7 (4) A violation of Section 1090 or 27443 of the Government
8 Code.

9 (5) Felony welfare fraud or Medi-Cal fraud in violation of
10 Section 11483 or 14107 of the Welfare and Institutions Code.

11 (6) Felony insurance fraud in violation of Section 548 or 550
12 of this code or former Section 1871.1, or Section 1871.4, of the
13 Insurance Code.

14 (7) A violation of Section 580, 581, 582, 583, or 584 of the
15 Business and Professions Code.

16 (8) A violation of Section 22430 of the Business and
17 Professions Code.

18 (9) A violation of Section 10690 of the Health and Safety Code.

19 (10) A violation of Section 529a.

20 (11) A violation of subdivision (d) or (e) of Section 368.

21 (d) If the defendant is out of the state when or after the offense
22 is committed, the prosecution may be commenced as provided in
23 Section 804 within the limitations of time prescribed by this
24 chapter, and no time up to a maximum of three years during which
25 the defendant is not within the state shall be a part of those
26 limitations.

27 (e) A limitation of time prescribed in this chapter does not
28 commence to run until the offense has been discovered, or could
29 have reasonably been discovered, with regard to offenses under
30 Division 7 (commencing with Section 13000) of the Water Code,
31 under Chapter 6.5 (commencing with Section 25100) of, Chapter
32 6.7 (commencing with Section 25280) of, or Chapter 6.8
33 (commencing with Section 25300) of, Division 20 of, or Part 4
34 (commencing with Section 41500) of Division 26 of, the Health
35 and Safety Code, or under Section 386, or offenses under Chapter
36 5 (commencing with Section 2000) of Division 2 of, Chapter 9
37 (commencing with Section 4000) of Division 2 of, Chapter 10
38 (commencing with Section 7301) of Division 3 of, or Chapter 19.5
39 (commencing with Section 22440) of Division 8 of, the Business
40 and Professions Code.

(f) (1) Notwithstanding any other limitation of time described in this chapter, a criminal complaint may be filed within one year of the date of a report to a responsible adult or agency by a child under 18 years of age that the child is a victim of a crime described in Section 261, 286, 288, 288a, 288.5, 289, or 289.5.

(2) For purposes of this subdivision, a “responsible adult” or “agency” means a person or agency required to report pursuant to Section 11166. This subdivision applies only if both of the following occur:

(A) The limitation period specified in Section 800 or 801 has expired.

(B) The defendant has committed at least one violation of Section 261, 286, 288, 288a, 288.5, 289, or 289.5 against the same victim within the limitation period specified for that crime in either Section 800 or 801.

(3) (A) This subdivision applies to a cause of action arising before, on, or after January 1, 1990, the effective date of this subdivision, and it shall revive any cause of action barred by Section 800 or 801 if any of the following occurred or occurs:

(i) The complaint or indictment was filed on or before January 1, 1997, and it was filed within the time period specified in this subdivision.

(ii) The complaint or indictment is or was filed subsequent to January 1, 1997, and it is or was filed within the time period specified within this subdivision.

(iii) The victim made the report required by this subdivision to a responsible adult or agency after January 1, 1990, and a complaint or indictment was not filed within the time period specified in this subdivision, but a complaint or indictment is filed no later than 180 days after the date on which either a published opinion of the California Supreme Court, deciding whether retroactive application of this section is constitutional, becomes final or the United States Supreme Court files an opinion deciding the question of whether retroactive application of this subdivision is constitutional, whichever occurs first.

(iv) The victim made the report required by this subdivision to a responsible adult or agency after January 1, 1990, and a complaint or indictment was filed within the time period specified in this subdivision, but the indictment, complaint, or subsequently filed information was dismissed, but a new complaint or

indictment is or was filed no later than 180 days after the date on which either a published opinion of the California Supreme Court, deciding whether retroactive application of this section is constitutional, becomes final or the United States Supreme Court files an opinion deciding the question of whether retroactive application of this subdivision is constitutional, whichever occurs first.

(B) (i) If the victim made the report required by this subdivision to a responsible adult or agency after January 1, 1990, and a complaint or indictment was filed within the time period specified in this subdivision, but the indictment, complaint, or subsequently filed information was dismissed, a new complaint or indictment may be filed notwithstanding any other provision of law, including, but not limited to, subdivision (c) of Section 871.5 and subdivision (b) of Section 1238.

(ii) An order dismissing an action filed under this subdivision, which is entered or becomes effective at any time prior to 180 days after the date on which either a published opinion of the California Supreme Court, deciding the question of whether retroactive application of this section is constitutional, becomes final or the United States Supreme Court files an opinion deciding the question of whether retroactive application of this subdivision is constitutional, whichever occurs first, shall not be considered an order terminating an action within the meaning of Section 1387.

(iii) Any ruling regarding the retroactivity of this subdivision or its constitutionality made in the course of the previous proceeding, including any review proceeding, shall not be binding upon refiling.

(g) (1) Notwithstanding any other limitation of time described in this chapter, a criminal complaint may be filed within one year of the date of a report to a California law enforcement agency by a person of any age alleging that he or she, while under the age of 18 years, was the victim of a crime described in Section 261, 286, 288, 288a, 288.5, 289, or 289.5.

(2) This subdivision applies only if both of the following occur:

(A) The limitation period specified in Section 800 or 801 has expired.

(B) The crime involved substantial sexual conduct, as described in subdivision (b) of Section 1203.066, excluding masturbation that is not mutual, and there is independent evidence

1 that clearly and convincingly corroborates the victim's allegation.
2 No evidence may be used to corroborate the victim's allegation
3 that otherwise would be inadmissible during trial. Independent
4 evidence does not include the opinions of mental health
5 professionals.

6 (3) (A) This subdivision applies to a cause of action arising
7 before, on, or after January 1, 1994, the effective date of this
8 subdivision, and it shall revive any cause of action barred by
9 Section 800 or 801 if any of the following occurred or occurs:

10 (i) The complaint or indictment was filed on or before January
11 1, 1997, and it was filed within the time period specified in this
12 subdivision.

13 (ii) The complaint or indictment is or was filed subsequent to
14 January 1, 1997, and it is or was filed within the time period
15 specified within this subdivision.

16 (iii) The victim made the report required by this subdivision to
17 a law enforcement agency after January 1, 1994, and a complaint
18 or indictment was not filed within the time period specified in this
19 subdivision, but a complaint or indictment is filed no later than 180
20 days after the date on which either a published opinion of the
21 California Supreme Court, deciding the question of whether
22 retroactive application of this subdivision is constitutional,
23 becomes final or the United States Supreme Court files an opinion
24 deciding the question of whether retroactive application of this
25 subdivision is constitutional, whichever occurs first.

26 (iv) The victim made the report required by this subdivision to
27 a law enforcement agency after January 1, 1994, and a complaint
28 or indictment was filed within the time period specified in this
29 subdivision, but the indictment, complaint, or subsequently filed
30 information was dismissed, but a new complaint or indictment is
31 filed no later than 180 days after the date on which either a
32 published opinion of the California Supreme Court, deciding the
33 question of whether retroactive application of this subdivision is
34 constitutional, becomes final or the United States Supreme Court
35 files an opinion deciding the question of whether retroactive
36 application of this subdivision is constitutional, whichever occurs
37 first.

38 (B) (i) If the victim made the report required by this
39 subdivision to a law enforcement agency after January 1, 1994,
40 and a complaint or indictment was filed within the time period

specified in this subdivision, but the indictment, complaint, or subsequently filed information was dismissed, a new complaint or indictment may be filed notwithstanding any other provision of law, including, but not limited to, subdivision (c) of Section 871.5 and subdivision (b) of Section 1238.

(ii) An order dismissing an action filed under this subdivision, which is entered or becomes effective at any time prior to 180 days after the date on which either a published opinion of the California Supreme Court, deciding the question of whether retroactive application of this section is constitutional, becomes final or the United States Supreme Court files an opinion deciding the question of whether retroactive application of this subdivision is constitutional, whichever occurs first, shall not be considered an order terminating an action within the meaning of Section 1387.

(iii) Any ruling regarding the retroactivity of this subdivision or its constitutionality made in the course of the previous proceeding, by any trial court or any intermediate appellate court, shall not be binding upon refiling.

(h) (1) Notwithstanding any other limitation of time described in this chapter, a criminal complaint may be filed within one year of the date of a report to a California law enforcement agency by a person under 21 years of age, alleging that he or she, while under 18 years of age, was the victim of a crime described in Section 261, 286, 288, 288a, 288.5, 289, or 289.5.

(2) This subdivision applies only if both of the following occur:

(A) The limitation period specified in Section 800 or 801 has expired.

(B) The crime involved substantial sexual conduct, as described in subdivision (b) of Section 1203.066, excluding masturbation that is not mutual, and there is independent evidence that corroborates the victim's allegation. No evidence may be used to corroborate the victim's allegation that otherwise would be inadmissible during trial. Independent evidence does not include the opinions of mental health professionals.

(3) This subdivision applies to a cause of action arising before, on, or after January 1, 2002, the effective date of this subdivision, and it shall revive any cause of action barred by Section 800 or 801 if the complaint or indictment was filed within the time period specified by this subdivision.

1 (i) (1) Notwithstanding the limitation of time described in
2 Section 800, the limitations period for commencing prosecution
3 for a felony offense described in subparagraph (A) of paragraph
4 (2) of subdivision (a) of Section 290, where the limitations period
5 set forth in Section 800 has not expired as of January 1, 2001, or
6 the offense is committed on or after January 1, 2001, shall be 10
7 years from the commission of the offense, or one year from the
8 date on which the identity of the suspect is conclusively
9 established by DNA testing, whichever is later, provided,
10 however, that the one-year period from the establishment of the
11 identity of the suspect shall only apply when either of the
12 following conditions is met:

13 (A) For an offense committed prior to January 1, 2001,
14 biological evidence collected in connection with the offense is
15 analyzed for DNA type no later than January 1, 2004.

16 (B) For an offense committed on or after January 1, 2001,
17 biological evidence collected in connection with the offense is
18 analyzed for DNA type no later than two years from the date of the
19 offense.

20 (2) In the event the conditions set forth in subparagraph (A) or
21 (B) of paragraph (1) are not met, the limitations period for
22 commencing prosecution for a felony offense described in
23 subparagraph (A) of paragraph (2) of subdivision (a) of Section
24 290, where the limitations period set forth in Section 800 has not
25 expired as of January 1, 2001, or the offense is committed on or
26 after January 1, 2001, shall be 10 years from the commission of the
27 offense.

28 (3) For purposes of this section, “DNA” means
29 deoxyribonucleic acid.

30 (j) As used in subdivisions (f), (g), and (h), Section 289.5 refers
31 to the statute enacted by Chapter ~~233~~ 293 of the Statutes of 1991,
32 penetration ~~of~~ by an unknown object.

33 SEC. 18. Section 969c of the Penal Code is repealed.

34 SEC. 19. Section 969d of the Penal Code is repealed.

35 SEC. 20. Section 1042 of the Penal Code is amended to read:
36 1042. Issues of fact shall be tried in the manner provided in
37 Article I, Section 16 of the Constitution of this state.

38 SEC. 21. Section 1203.1bb of the Penal Code is amended to
39 read:

1 1203.1bb. (a) The reasonable cost of probation determined
2 under subdivision (a) of Section 1203.1b shall include the cost of
3 purchasing and installing an ignition interlock device pursuant to
4 Section 13386 of the Vehicle Code. Any defendant subject to this
5 section shall pay the manufacturer of the ignition interlock device
6 directly for the cost of its purchase and installation, in accordance
7 with the payment schedule ordered by the court. If practicable, the
8 court shall order payment to be made to the manufacturer of the
9 ignition interlock device within a six-month period.

10 (b) This section does not require any county to pay the costs of
11 purchasing and installing any ignition interlock devices ordered
12 pursuant to Section 13386 of the Vehicle Code. The Office of
13 Traffic Safety shall consult with the presiding judge or his or her
14 designee in each county to determine an appropriate means, if any,
15 to provide for installation of ignition interlock devices in cases in
16 which the defendant has no ability to pay.

17 SEC. 22. Section 1203.72 of the Penal Code is amended to
18 read:

19 1203.72. Except as provided in subparagraph (D) of
20 paragraph (2) of subdivision (b) of Section 1203, no court shall
21 pronounce judgment upon any defendant, as to whom the court has
22 requested a probation report pursuant to Section 1203.7, unless a
23 copy of the probation report has been made available to the court,
24 the prosecuting attorney, and the defendant or his or her attorney,
25 at least two days or, upon the request of the defendant, five days
26 prior to the time fixed by the court for consideration of the report
27 with respect to pronouncement of judgment. The report shall be
28 filed with the clerk of the court as a record in the case at the time
29 the court considers the report.

30 If the defendant is not represented by an attorney, the court,
31 upon ordering the probation report, shall also order the probation
32 officer who prepares the report to discuss its contents with the
33 defendant.

34 SEC. 23. Section 1203.73 of the Penal Code is amended to
35 read:

36 1203.73. The probation officers and deputy probation officers
37 in all counties of the state shall be allowed those necessary
38 incidental expenses incurred in the performance of their duties as
39 required by any law of this state, as may be authorized by a judge
40 of the superior court; and the same shall be a charge upon the

1 county in which the court appointing them has jurisdiction and
2 shall be paid out of the county treasury upon a warrant issued
3 therefor by the county auditor upon the order of the court;
4 provided, however, that in counties in which the probation officer
5 is appointed by the board of supervisors, the expenses shall be
6 authorized by the probation officer and claims therefor shall be
7 audited, allowed and paid in the same manner as other county
8 claims.

9 SEC. 24. Section 1524.1 of the Penal Code is amended to
10 read:

11 1524.1. (a) The primary purpose of the testing and disclosure
12 provided in this section is to benefit the victim of a crime by
13 informing the victim whether the defendant is infected with the
14 HIV virus. It is also the intent of the Legislature in enacting this
15 section to protect the health of both victims of crime and those
16 accused of committing a crime. Nothing in this section shall be
17 construed to authorize mandatory testing or disclosure of test
18 results for the purpose of a charging decision by a prosecutor, nor,
19 except as specified in subdivisions (g) and (i), shall this section be
20 construed to authorize breach of the confidentiality provisions
21 contained in Chapter 7 (commencing with Section 120975) of Part
22 4 of Division 105 of the Health and Safety Code.

23 (b) (1) Notwithstanding the provisions of Chapter 7
24 (commencing with Section 120975) of Part 4 of Division 105 of
25 the Health and Safety Code, when a defendant has been charged
26 by complaint, information, or indictment with a crime, or a minor
27 is the subject of a petition filed in juvenile court alleging the
28 commission of a crime, the court, at the request of the victim, may
29 issue a search warrant for the purpose of testing the accused's
30 blood with any HIV test, as defined in Section 120775 of the
31 Health and Safety Code only under the following circumstances:
32 when the court finds, upon the conclusion of the hearing described
33 in paragraph (3), or in those cases in which a preliminary hearing
34 is not required to be held, ~~the court also finds~~ that there is probable
35 cause to believe that the accused committed the offense, and that
36 there is probable cause to believe that blood, semen, or any other
37 body fluid identified by the State Department of Health Services
38 in appropriate regulations as capable of transmitting the human
39 immunodeficiency virus has been transferred from the accused to
40 the victim.

(2) Notwithstanding Chapter 7 (commencing with Section 120975) of Part 4 of Division 105 of the Health and Safety Code, when a defendant has been charged by complaint, information, or indictment with a crime under Section 220, 261, 261.5, 262, 264.1, 286, 288, 288a, 288.5, 289, or 289.5, and is the subject of a police report alleging the commission of a separate, uncharged offense that could be charged under Section 220, 261, 261.5, 262, 264.1, 286, 288, 288a, 288.5, 289, or 289.5, or a minor is the subject of a petition filed in juvenile court alleging the commission of a crime under Section 220, 261, 261.5, 262, 264.1, 286, 288, 288a, 288.5, 289, or 289.5, and is the subject of a police report alleging the commission of a separate, uncharged offense that could be charged under Section 220, 261, 261.5, 262, 264.1, 286, 288, 288a, 288.5, 289, or 289.5, the court, at the request of the victim of the uncharged offense, may issue a search warrant for the purpose of testing the accused's blood with any HIV test, as defined in Section 120775 of the Health and Safety Code only under the following circumstances: when the court finds that there is probable cause to believe that the accused committed the uncharged offense, and that there is probable cause to believe that blood, semen, or any other body fluid identified by the State Department of Health Services in appropriate regulations as capable of transmitting the human immunodeficiency virus has been transferred from the accused to the victim. As used in this paragraph, Section 289.5 refers to the statute enacted by Chapter 293 of the Statutes of 1991, penetration ~~of~~ by an unknown object.

(3) (A) Prior to the issuance of a search warrant pursuant to paragraph (1), the court, where applicable and at the conclusion of the preliminary examination if the defendant is ordered to answer pursuant to Section 872, shall conduct a hearing at which both the victim and the defendant have the right to be present. During the hearing, only affidavits, counter affidavits, and medical reports regarding the facts that support or rebut the issuance of a search warrant under paragraph (1) shall be admissible.

(B) Prior to the issuance of a search warrant pursuant to paragraph (2), the court, where applicable, shall conduct a hearing at which both the victim and the defendant are present. During the hearing, only affidavits, counter affidavits, and medical reports regarding the facts that support or rebut the issuance of a search warrant under paragraph (2) shall be admissible.

(4) A request for a probable cause hearing made by a victim under paragraph (2) shall be made before sentencing in the municipal or superior court, or before disposition on a petition in a juvenile court, of the criminal charge or charges filed against the defendant.

(c) (1) In all cases in which the person has been charged by complaint, information, or indictment with a crime, or is the subject of a petition filed in a juvenile court alleging the commission of a crime, the prosecutor shall advise the victim of his or her right to make this request. To assist the victim of the crime to determine whether he or she should make this request, the prosecutor shall refer the victim to the local health officer for prerequest counseling to help that person understand the extent to which the particular circumstances of the crime may or may not have put the victim at risk of transmission of HIV from the accused, to ensure that the victim understands both the benefits and limitations of the current tests for HIV, to help the victim decide whether he or she wants to request that the accused be tested, and to help the victim decide whether he or she wants to be tested.

(2) The Department of Justice, in cooperation with the California District Attorneys Association, shall prepare a form to be used in providing victims with the notice required by paragraph (1).

(d) If the victim decides to request HIV testing of the accused, the victim shall request the issuance of a search warrant, as described in subdivision (b).

Neither the failure of a prosecutor to refer or advise the victim as provided in this subdivision, nor the failure or refusal by the victim to seek or obtain counseling, shall be considered by the court in ruling on the victim's request.

(e) The local health officer shall make provision for administering all HIV tests ordered pursuant to subdivision (b).

(f) Any blood tested pursuant to subdivision (b) shall be subjected to appropriate confirmatory tests to ensure accuracy of the first test results, and under no circumstances shall test results be transmitted to the victim or the accused unless any initially reactive test result has been confirmed by appropriate confirmatory tests for positive reactors.

(g) The local health officer shall have the responsibility for disclosing test results to the victim who requested the test and to

1 the accused who was tested. However, no positive test results shall
2 be disclosed to the victim or to the accused without also providing
3 or offering professional counseling appropriate to the
4 circumstances.

5 (h) The local health officer and victim shall comply with all
6 laws and policies relating to medical confidentiality subject to the
7 disclosure authorized by subdivisions (g) and (i). Any individual
8 who files a false report of sexual assault in order to obtain test
9 result information pursuant to this section shall, in addition to any
10 other liability under law, be guilty of a misdemeanor punishable
11 as provided in subdivision (c) of Section 120980 of the Health and
12 Safety Code. Any individual as described in the preceding
13 sentence who discloses test result information obtained pursuant
14 to this section shall also be guilty of an additional misdemeanor
15 punishable as provided for in subdivision (c) of Section 120980 of
16 the Health and Safety Code for each separate disclosure of that
17 information.

18 (i) Any victim who receives information from the health
19 officer pursuant to subdivision (g) may disclose the test results as
20 the victim deems necessary to protect his or her health and safety
21 or the health and safety of his or her family or sexual partner.

22 (j) Any person transmitting test results or disclosing
23 information pursuant to this section shall be immune from civil
24 liability for any actions taken in compliance with this section.

25 (k) The results of any blood tested pursuant to subdivision (b)
26 shall not be used in any criminal proceeding as evidence of either
27 guilt or innocence.

28 SEC. 25. Section 2933.1 of the Penal Code is amended to
29 read:

30 2933.1. (a) Notwithstanding any other law, any person who
31 is convicted of a felony offense listed in subdivision (c) of Section
32 667.5 shall accrue no more than 15 percent of worktime credit, as
33 defined in Section 2933.

34 (b) The 15-percent limitation provided in subdivision (a) shall
35 apply whether the defendant is sentenced under Chapter 4.5
36 (commencing with Section 1170) of Title 7 of Part 2 or sentenced
37 under some other law. However, nothing in subdivision (a) shall
38 affect the requirement of any statute that the defendant serve a
39 specified period of time prior to minimum parole eligibility, nor

1 shall any offender otherwise statutorily ineligible for credit be
2 eligible for credit pursuant to this section.

3 (c) Notwithstanding Section 4019 or any other provision of
4 law, the maximum credit that may be earned against a period of
5 confinement in, or commitment to, a county jail, industrial farm,
6 or road camp, or a city jail, industrial farm, or road camp,
7 following arrest and prior to placement in the custody of the
8 Director of Corrections, shall not exceed 15 percent of the actual
9 period of confinement for any person specified in subdivision (a).

10 (d) This section shall only apply to offenses listed in
11 subdivision (a) that are committed on or after the date on which
12 this section becomes operative.

13 SEC. 26. Section 5058 of the Penal Code is amended to read:

14 5058. (a) The director may prescribe and amend rules and
15 regulations for the administration of the prisons and for the
16 administration of the parole of persons sentenced under Section
17 1170 except those persons who meet the criteria set forth in Section
18 2962. The rules and regulations shall be promulgated and filed
19 pursuant to Chapter 3.5 (commencing with Section 11340) of Part
20 1 of Division 3 of Title 2 of the Government Code, except as
21 otherwise provided in this section and Sections 5058.1 to 5058.3,
22 inclusive. All rules and regulations shall, to the extent practical, be
23 stated in language that is easily understood by the general public.

24 For any rule or regulation filed as regular rulemaking as defined
25 in paragraph (5) of subdivision (a) of Section 1 of Title 1 of the
26 California Code of Regulations, copies of the rule or regulation
27 shall be posted in conspicuous places throughout each institution
28 and shall be mailed to all persons or organizations who request
29 them no less than 20 days prior to its effective date.

30 (b) The director shall maintain, publish and make available to
31 the general public, a compendium of the rules and regulations
32 promulgated by the director pursuant to this section and Sections
33 5058.1 to 5058.3, inclusive.

34 (c) The following are deemed not to be “regulations” as
35 defined in Section 11342.600 of the Government Code:

36 (1) Rules issued by the director applying solely to a particular
37 prison or other correctional facility, provided that the following
38 conditions are met:

39 (A) All rules that apply to prisons or other correctional
40 facilities throughout the state are adopted by the director pursuant

1 to Chapter 3.5 (commencing with Section 11340) of Part 1 of
2 Division 3 of Title 2 of the Government Code.

3 (B) All rules except those that are excluded from disclosure to
4 the public pursuant to subdivision (f) of Section 6254 of the
5 Government Code are made available to all inmates confined in
6 the particular prison or other correctional facility to which the
7 rules apply and to all members of the general public.

8 (2) Short-term criteria for the placement of inmates in a new
9 prison or other correctional facility, or subunit thereof, during its
10 first six months of operation, or in a prison or other correctional
11 facility, or subunit thereof, planned for closing during its last six
12 months of operation, provided that the criteria are made available
13 to the public and that an estimate of fiscal impact is completed
14 pursuant to Sections 6650 to 6670, inclusive, of the State
15 Administrative Manual.

16 (3) Rules issued by the director that are excluded from
17 disclosure to the public pursuant to subdivision (f) of Section 6254
18 of the Government Code.

19 SEC. 27. Section 11051 of the Penal Code is amended to read:

20 11051. The Department of Justice shall perform duties in the
21 investigation, detection, apprehension, prosecution or suppression
22 of crimes as may be assigned by the Attorney General in the
23 performance of his or her duties under Article V, Section 13 of the
24 Constitution.

25 SEC. 28. Section 11460 of the Penal Code is amended to read:

26 11460. (a) Any two or more persons who assemble as a
27 paramilitary organization for the purpose of practicing with
28 weapons shall be punished by imprisonment in ~~the~~ a county jail for
29 not more than one year or by a fine of not more than one thousand
30 dollars (\$1,000), or by both that fine and imprisonment.

31 As used in this subdivision, “paramilitary organization” means
32 an organization which is not an agency of the United States
33 government or of the State of California, or which is not a private
34 school meeting the requirements set forth in Section 48222 of the
35 Education Code, but which engages in instruction or training in
36 guerrilla warfare or sabotage, or which, as an organization,
37 engages in rioting or the violent disruption of, or the violent
38 interference with, school activities.

39 (b) (1) Any person who teaches or demonstrates to any other
40 person the use, application, or making of any firearm, explosive,

1 or destructive device, or technique capable of causing injury or
2 death to persons, knowing or having reason to know or intending
3 that these objects or techniques will be unlawfully employed for
4 use in, or in the furtherance of a civil disorder, or any person who
5 assembles with one or more other persons for the purpose of
6 training with, practicing with, or being instructed in the use of any
7 firearm, explosive, or destructive device, or technique capable of
8 causing injury or death to persons, with the intent to cause or
9 further a civil disorder, shall be punished by imprisonment in the
10 county jail for not more than one year or by a fine of not more than
11 one thousand dollars (\$1,000), or by both that fine and
12 imprisonment.

13 Nothing in this subdivision shall make unlawful any act of any
14 peace officer or a member of the military forces of this state or of
15 the United States, performed in the lawful course of his or her
16 official duties.

17 (2) As used in this section:

18 (A) “Civil disorder” means any disturbance involving acts of
19 violence which cause an immediate danger of or results in damage
20 or injury to the property or person of any other individual.

21 (B) “Destructive device” has the same meaning as in Section
22 12301.

23 (C) “Explosive” has the same meaning as in Section 12000 of
24 the Health and Safety Code.

25 (D) “Firearm” means any device designed to be used as a
26 weapon, or which may readily be converted to a weapon, from
27 which is expelled a projectile by the force of any explosion or other
28 form of combustion, or the frame or receiver of this weapon.

29 (E) “Peace officer” means any peace officer or other officer
30 having the powers of arrest of a peace officer, specified in Chapter
31 4.5 (commencing with Section 830) of Title 3 of Part 2.

32 SEC. 29. Section 12280 of the Penal Code is amended to read:

33 12280. (a) (1) Any person who, within this state,
34 manufactures or causes to be manufactured, distributes,
35 transports, or imports into the state, keeps for sale, or offers or
36 exposes for sale, or who gives or lends any assault weapon, except
37 as provided by this chapter, is guilty of a felony, and upon
38 conviction shall be punished by imprisonment in the state prison
39 for four, six, or eight years.



1 (2) In addition and consecutive to the punishment imposed
2 under paragraph (1), any person who transfers, lends, sells, or
3 gives any assault weapon to a minor in violation of paragraph (1)
4 shall receive an enhancement of one year.

5 (b) Except as provided in Section 12288, and in subdivisions
6 (c) and (d), any person who, within this state, possesses any assault
7 weapon, except as provided in this chapter, is guilty of a public
8 offense and upon conviction shall be punished by imprisonment in
9 the state prison, or in a county jail, not exceeding one year.
10 However, if the person presents proof that he or she lawfully
11 possessed the assault weapon prior to June 1, 1989, or prior to the
12 date it was specified as an assault weapon, and has since either
13 registered the firearm and any other lawfully obtained firearm
14 specified by Section 12276 or 12276.5 pursuant to Section 12285
15 or relinquished them pursuant to Section 12288, a first-time
16 violation of this subdivision shall be an infraction punishable by
17 a fine of up to five hundred dollars (\$500), but not less than three
18 hundred fifty dollars (\$350), if the person has otherwise possessed
19 the firearm in compliance with subdivision (c) of Section 12285.
20 In these cases, the firearm shall be returned unless the court finds
21 in the interest of public safety, after notice and hearing, that the
22 assault weapon should be destroyed pursuant to Section 12028.

23 (c) A first-time violation of subdivision (b) shall be an
24 infraction punishable by a fine of up to five hundred dollars
25 (\$500), if the person was found in possession of no more than two
26 firearms in compliance with subdivision (c) of Section 12285 and
27 the person meets all of the following conditions:

28 (1) The person proves that he or she lawfully possessed the
29 assault weapon prior to the date it was defined as an assault weapon
30 pursuant to Section 12276.1.

31 (2) The person is not found in possession of a firearm specified
32 as an assault weapon pursuant to Section 12276 or Section
33 12276.5.

34 (3) The person has not previously been convicted of violating
35 this section.

36 (4) The person was found to be in possession of the assault
37 weapons within one year following the end of the one-year
38 registration period established pursuant to subdivision (a) of
39 Section 12285.

1 (5) The person has since registered the firearms and any other
2 lawfully obtained firearms defined by Section 12276.1, pursuant
3 to Section 12285, except as provided for by this section, or
4 relinquished them pursuant to Section 12288.

5 (d) Firearms seized pursuant to subdivision (c) shall be
6 returned unless the court finds in the interest of public safety, after
7 notice and hearing, that the assault weapon should be destroyed
8 pursuant to Section 12028.

9 (e) Notwithstanding Section 654 or any other provision of law,
10 any person who commits another crime while violating this section
11 may receive an additional, consecutive punishment of one year for
12 violating this section in addition and consecutive to the
13 punishment, including enhancements, which is prescribed for the
14 other crime.

15 (f) Subdivisions (a) and (b) shall not apply to the sale to,
16 purchase by, or possession of assault weapons by the Department
17 of Justice, police departments, sheriffs' offices, marshals' offices,
18 the Youth and Adult Corrections Agency, the Department of the
19 California Highway Patrol, district attorneys' offices, Department
20 of Fish and Game, Department of Parks and Recreation, or the
21 military or naval forces of this state or of the United States, or any
22 federal law enforcement agency for use in the discharge of their
23 official duties.

24 (g) (1) Subdivision (b) shall not prohibit the possession or use
25 of assault weapons by sworn peace officer members of those
26 agencies specified in subdivision (f) for law enforcement
27 purposes, whether on or off duty.

28 (2) Subdivisions (a) and (b) shall not prohibit the delivery,
29 transfer, or sale of an assault weapon to, or the possession of an
30 assault weapon by, a sworn peace officer member of an agency
31 specified in subdivision (f), provided that the peace officer is
32 authorized by his or her employer to possess or receive the assault
33 weapon. Required authorization is defined as verifiable written
34 certification from the head of the agency, identifying the recipient
35 or possessor of the assault weapon as a peace officer and
36 authorizing him or her to receive or possess the specific assault
37 weapon. For this exemption to apply, in the case of a peace officer
38 who possesses or receives the assault weapon prior to January 1,
39 2002, the officer shall register the assault weapon pursuant to
40 Section 12285 on or before April 1, 2002; in the case of a peace

1 officer who possesses or receives the assault weapon on or after
2 January 1, 2002, the officer shall register the assault weapon
3 pursuant to Section 12285 not later than 90 days after possession
4 or receipt. The peace officer must include with the registration, a
5 copy of the authorization required pursuant to this paragraph.

6 (3) Nothing in this section shall be construed to limit or prohibit
7 the delivery, transfer, or sale of an assault weapon to, or the
8 possession of an assault weapon by, a member of a federal law
9 enforcement agency provided that person is authorized by the
10 employing agency to possess the assault weapon.

11 (h) Subdivisions (a) and (b) shall not prohibit the sale or
12 transfer of assault weapons by an entity specified in subdivision (f)
13 to a person, upon retirement, who retired as a sworn officer from
14 that entity.

15 (i) Subdivision (b) shall not apply to the possession of an
16 assault weapon by a retired peace officer who received that assault
17 weapon pursuant to subdivision (h).

18 (j) Subdivision (b) shall not apply to the possession of an
19 assault weapon, as defined in Section 12276, by any person during
20 the 1990 calendar year, during the 90-day period immediately after
21 the date it was specified as an assault weapon pursuant to Section
22 12276.5, or during the one-year period after the date it was defined
23 as an assault weapon pursuant to Section 12276.1, if all of the
24 following are applicable:

25 (1) The person is eligible under this chapter to register the
26 particular assault weapon.

27 (2) The person lawfully possessed the particular assault
28 weapon described in paragraph (1) prior to June 1, 1989, if the
29 weapon is specified as an assault weapon pursuant to Section
30 12276, or prior to the date it was specified as an assault weapon
31 pursuant to Section 12276.5, or prior to the date it was defined as
32 an assault weapon pursuant to Section 12276.1.

33 (3) The person is otherwise in compliance with this chapter.

34 (k) Subdivisions (a) and (b) shall not apply to the manufacture
35 by persons who are issued permits pursuant to Section 12287 of
36 assault weapons for sale to the following:

37 (1) Exempt entities listed in subdivision (f).

38 (2) Entities and persons who have been issued permits pursuant
39 to Section 12286.

(3) Entities outside the state who have, in effect, a federal firearms dealer's license solely for the purpose of distribution to an entity listed in paragraphs (4) to (6), inclusive.

(4) Federal military and law enforcement agencies.

(5) Law enforcement and military agencies of other states.

(6) Foreign governments and agencies approved by the United States State Department.

(l) Subdivision (a) shall not apply to a person who is the executor or administrator of an estate that includes an assault weapon registered under Section 12285 or that was possessed pursuant to subdivision (g) or (i) which is disposed of as authorized by the probate court, if the disposition is otherwise permitted by this chapter.

(m) Subdivision (b) shall not apply to a person who is the executor or administrator of an estate that includes an assault weapon registered under Section 12285 or that was possessed pursuant to subdivision (g) or (i), if the assault weapon is possessed at a place set forth in paragraph (1) of subdivision (c) of Section 12285 or as authorized by the probate court.

(n) Subdivision (a) shall not apply to:

(1) A person who lawfully possesses and has registered an assault weapon pursuant to this chapter, or who lawfully possesses an assault weapon pursuant to subdivision (i), who lends that assault weapon to another if all the following apply:

(A) The person to whom the assault weapon is lent is 18 years of age or over and is not in a class of persons prohibited from possessing firearms by virtue of Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(B) The person to whom the assault weapon is lent remains in the presence of the registered possessor of the assault weapon, or the person who lawfully possesses an assault weapon pursuant to subdivision (i).

(C) The assault weapon is possessed at any of the following locations:

(i) While on a target range that holds a regulatory or business license for the purpose of practicing shooting at that target range.

(ii) While on the premises of a target range of a public or private club or organization organized for the purpose of practicing shooting at targets.

1 (iii) While attending any exhibition, display, or educational
2 project that is about firearms and that is sponsored by, conducted
3 under the auspices of, or approved by a law enforcement agency
4 or a nationally or state recognized entity that fosters proficiency
5 in, or promotes education about, firearms.

6 (2) The return of an assault weapon to the registered possessor,
7 or the lawful possessor, which is lent by the same pursuant to
8 paragraph (1).

9 (o) Subdivision (b) shall not apply to the possession of an
10 assault weapon by a person to whom an assault weapon is lent
11 pursuant to subdivision (n).

12 (p) Subdivisions (a) and (b) shall not apply to the possession
13 and importation of an assault weapon into this state by a
14 nonresident if all of the following conditions are met:

15 (1) The person is attending or going directly to or coming
16 directly from an organized competitive match or league
17 competition that involves the use of an assault weapon.

18 (2) The competition or match is conducted on the premises of
19 one of the following:

20 (i) A target range that holds a regulatory or business license for
21 the purpose of practicing shooting at that target range.

22 (ii) A target range of a public or private club or organization
23 that is organized for the purpose of practicing shooting at targets.

24 (3) The match or competition is sponsored by, conducted under
25 the auspices of, or approved by, a law enforcement agency or a
26 nationally or state recognized entity that fosters proficiency in, or
27 promotes education about, firearms.

28 (4) The assault weapon is transported in accordance with
29 Section 12026.1 or 12026.2.

30 (5) The person is 18 years of age or over and is not in a class
31 of persons prohibited from possessing firearms by virtue of
32 Section 12021 or 12021.1 of this code or Section 8100 or 8103 of
33 the Welfare and Institutions Code.

34 (q) Subdivision (b) shall not apply to any of the following
35 persons:

36 (1) A person acting in accordance with Section 12286.

37 (2) A person who has a permit to possess an assault weapon
38 issued pursuant to Section 12286 when he or she is acting in
39 accordance with Section 12285 or 12286.

(r) Subdivisions (a) and (b) shall not apply to any of the following persons:

(1) A person acting in accordance with Section 12285.

(2) A person acting in accordance with Section 12286 or 12290.

(s) Subdivision (b) shall not apply to the registered owner of an assault weapon possessing that firearm in accordance with subdivision (c) of Section 12285.

(t) Subdivision (a) shall not apply to the importation into this state of an assault weapon by the registered owner of that assault weapon, if it is in accordance with the provisions of subdivision (c) of Section 12285.

(u) As used in this chapter, the date a firearm is an assault weapon is the earliest of the following:

(1) The effective date of an amendment to Section 12276 that adds the designation of the specified firearm.

(2) The effective date of the list promulgated pursuant to Section 12276.5 that adds or changes the designation of the specified firearm.

(3) The operative date of Section 12276.1, as specified in subdivision (d) of that section.

SEC. 30. Section 13823.11 of the Penal Code is amended to read:

13823.11. The minimum standards for the examination and treatment of victims of sexual assault or attempted sexual assault, including child molestation and the collection and preservation of evidence therefrom include all of the following:

(a) Law enforcement authorities shall be notified.

(b) In conducting the physical examination, the outline indicated in the form adopted pursuant to subdivision (c) of Section 13823.5 shall be followed.

(c) Consent for a physical examination, treatment, and collection of evidence shall be obtained.

(1) Consent to an examination for evidence of sexual assault shall be obtained prior to the examination of a victim of sexual assault and shall include separate written documentation of consent to each of the following:

(A) Examination for the presence of injuries sustained as a result of the assault.

1 (B) Examination for evidence of sexual assault and collection
2 of physical evidence.

3 (C) Photographs of injuries.

4 (2) Consent to treatment shall be obtained in accordance with
5 usual hospital policy.

6 (3) A victim of sexual assault shall be informed that he or she
7 may refuse to consent to an examination for evidence of sexual
8 assault, including the collection of physical evidence, but that ~~such~~
9 ~~a~~ *this* refusal is not a ground for denial of treatment of injuries and
10 for possible pregnancy and venereal disease, if the person wishes
11 to obtain treatment and consents thereto.

12 (4) Pursuant to Chapter 3 (commencing with Section 6920) of
13 Part 4 of Division 11 of the Family Code, a minor may consent to
14 hospital, medical, and surgical care related to a sexual assault
15 without the consent of a parent or guardian.

16 (5) In cases of known or suspected child abuse, the consent of
17 the parents or legal guardian is not required. In the case of
18 suspected child abuse and nonconsenting parents, the consent of
19 the local agency providing child protective services or the local
20 law enforcement agency shall be obtained. Local procedures
21 regarding obtaining consent for the examination and treatment of,
22 and the collection of evidence from, children from child protective
23 authorities shall be followed.

24 (d) A history of sexual assault shall be taken.

25 The history obtained in conjunction with the examination for
26 evidence of sexual assault shall follow the outline of the form
27 established pursuant to subdivision (c) of Section 13823.5 and
28 shall include all of the following:

29 (1) A history of the circumstances of the assault.

30 (2) For a child, any previous history of child sexual abuse and
31 an explanation of injuries, if different from that given by the parent
32 or person accompanying the child.

33 (3) Physical injuries reported.

34 (4) Sexual acts reported, whether or not ejaculation is
35 suspected, and whether or not a condom or lubricant was used.

36 (5) Record of relevant medical history.

37 (e) Each adult and minor victim of sexual assault who consents
38 to a medical examination for collection of evidentiary material
39 shall have a physical examination which includes, but is not
40 limited to, all of the following:

1 (1) Inspection of the clothing, body, and external genitalia for
2 injuries and foreign materials.

3 (2) Examination of the mouth, vagina, cervix, penis, anus, and
4 rectum, as indicated.

5 (3) Documentation of injuries and evidence collected.

6 Prepubertal children shall not have internal vaginal or anal
7 examinations unless absolutely necessary (this does not preclude
8 careful collection of evidence using a swab).

9 (f) The collection of physical evidence shall conform to the
10 following procedures:

11 (1) Each victim of sexual assault who consents to an
12 examination for collection of evidence shall have the following
13 items of evidence collected, except where he or she specifically
14 objects:

15 (A) Clothing worn during assault.

16 (B) Foreign materials revealed by an examination of the
17 clothing, body, external genitalia, and pubic hair combings.

18 (C) Swabs and slides from the mouth, vagina, rectum, and
19 penis, as indicated, to determine the presence or absence of sperm
20 and sperm motility, and for genetic marker typing.

21 (2) Each victim of sexual assault who consents to an
22 examination for the collection of evidence shall have reference
23 specimens taken, except when he or she specifically objects
24 thereto. A reference specimen is a standard from which to obtain
25 baseline information (for example: pubic and head hair, blood, and
26 saliva for genetic marker typing). These specimens shall be taken
27 in accordance with the standards of the local criminalistics
28 laboratory.

29 (3) A baseline gonorrhea culture, and syphilis serology, shall
30 be taken, if indicated by the history of contact. Specimens for a
31 pregnancy test shall be taken, if indicated by the history of contact.

32 (g) Preservation and disposition of physical evidence shall
33 conform to the following procedures:

34 (1) All swabs and slides shall be air-dried prior to packaging.

35 (2) All items of evidence including laboratory specimens shall
36 be clearly labeled as to the identity of the source and the identity
37 of the person collecting them.

38 (3) The evidence shall have a form attached which documents
39 its chain of custody and shall be properly sealed.

1 (4) The evidence shall be turned over to the proper law
2 enforcement agency.

3 SEC. 31. Section 13861 of the Penal Code is amended to read:

4 13861. There is hereby created in the Office of Criminal
5 Justice Planning the Suppression of Drug Abuse in Schools
6 Program. All funds made available to the Office of Criminal
7 Justice Planning for the purposes of this chapter shall be
8 administered and disbursed by the executive director of the office
9 in consultation with the State Suppression of Drug Abuse in
10 Schools Advisory Committee established pursuant to Section
11 13863.

12 (a) The executive director, in consultation with the State
13 Suppression of Drug Abuse in Schools Advisory Committee, is
14 authorized to allocate and award funds to local law enforcement
15 agencies and public schools jointly working to develop drug abuse
16 prevention and drug trafficking suppression programs in
17 substantial compliance with the policies and criteria set forth in
18 Sections 13862 and 13863.

19 (b) The allocation and award of funds shall be made upon the
20 joint application by the chief law enforcement officer of the
21 coapplicant law enforcement agency and approved by the law
22 enforcement agency's legislative body and the superintendent and
23 board of the school district coapplicant. The joint application of
24 the law enforcement agency and the school district shall be
25 submitted for review to the Local Suppression on Drug Abuse in
26 Schools Advisory Committee established pursuant to paragraph
27 (4) of subdivision (a) of Section 13862. After review, the
28 application shall be submitted to the Office of Criminal Justice
29 Planning. Funds disbursed under this chapter may enhance but
30 shall not supplant local funds that would, in the absence of the
31 Suppression of Drug Abuse in Schools Program, be made
32 available to suppress and prevent drug abuse among school-age
33 children and to curtail drug trafficking in and around school areas.

34 (c) The coapplicant local law enforcement agency and the
35 coapplicant school district may enter into interagency agreements
36 between themselves which will allow the management and fiscal
37 tasks created pursuant to this chapter and assigned to both the law
38 enforcement agency and the school district to be performed by
39 only one of them.

1 (d) Within 90 days of the effective date of this chapter, the
2 Executive Director of the Office of Criminal Justice Planning in
3 consultation with the State Suppression of Drug Abuse in Schools
4 Advisory Committee established pursuant to Section 13863 shall
5 prepare and issue administrative guidelines and procedures for the
6 Suppression of Drug Abuse in Schools Program consistent with
7 this chapter. In addition to all other formal requirements that may
8 apply to the enactment of these guidelines and procedures, a
9 complete and final draft shall be submitted within 60 days of the
10 effective date of this chapter to the Chairpersons of the Committee
11 on Criminal Law and Public Safety of the Assembly and the
12 Judiciary Committee of the Senate of the California Legislature.

13 SEC. 32. Section 13897.2 of the Penal Code is amended to
14 read:

15 13897.2. (a) The Office of Criminal Justice Planning shall
16 grant an award to an appropriate private, nonprofit organization,
17 to provide a statewide resource center, as described in Section
18 13897.1.

19 (b) The center shall:

20 (1) Provide callers with information about victims' legal rights
21 to compensation pursuant to Chapter 5 (commencing with Section
22 13959) of Part 4 of Division 3 of Title 2 of the Government Code
23 and, where appropriate, provide victims with guidance in
24 exercising these rights.

25 (2) Provide callers who provide services to victims of crime
26 with legal information regarding the legal rights of victims of
27 crime.

28 (3) Advise callers about any potential civil causes of action
29 and, where appropriate, provide callers with references to local
30 legal aid and lawyer referral services.

31 (4) Advise and assist callers in understanding and
32 implementing their rights to participate in sentencing and parole
33 eligibility hearings as provided by statute.

34 (5) Advise callers about victims' rights in the criminal justice
35 system, assist them in overcoming problems, including the return
36 of property, and inform them of any procedures protecting
37 witnesses.

38 (6) Refer callers, as appropriate, to local programs, which
39 include victim-witness programs, rape crisis units, domestic
40 violence projects, and child sexual abuse centers.



1 (7) Refer callers to local resources for information about
2 appropriate public and private benefits and the means of obtaining
3 aid.

4 (8) Publicize the existence of the toll-free service through the
5 print and electronic media, including public service
6 announcements, brochures, press announcements, various other
7 educational materials, and agreements for the provision of
8 publicity, by private entities.

9 (9) Compile comprehensive referral lists of local resources that
10 include the following: victims' assistance resources, including
11 legal and medical services, financial assistance, personal
12 counseling and support services, and victims' support groups.

13 (10) Produce promotional materials for distribution to law
14 enforcement agencies, state and local agencies, print, radio, and
15 television media outlets, and the general public. These materials
16 shall include placards, video and audio training materials, written
17 handbooks, and brochures for public distribution. Distribution of
18 these materials shall be coordinated with the local victims' service
19 programs.

20 (11) Research, compile, and maintain a library of legal
21 information concerning crime victims and their rights.

22 (12) Provide a 20-percent minimum cash match for all funds
23 appropriated pursuant to this chapter which match may include
24 federal and private funds in order to supplement any funds
25 appropriated by the Legislature.

26 (c) The resource center shall be located so as to assure
27 convenient and regular access between the center and those state
28 agencies most concerned with crime victims. The entity receiving
29 the grant shall be a private, nonprofit organization, independent of
30 law enforcement agencies, and have qualified staff knowledgeable
31 in the legal rights of crime victims and the programs and services
32 available to victims throughout the state. The subgrantee shall
33 have an existing statewide, toll-free information service and have
34 demonstrated substantial capacity and experience serving crime
35 victims in areas required by this act.

36 (d) The services of the resource center shall not duplicate the
37 victim service activities of the Office of Criminal Justice Planning
38 or those activities of local victim programs funded through the
39 office.

(e) The subgrantee shall be compensated at its federally approved indirect cost rate, if any. For the purposes of this section, “federally approved indirect cost rate” means that rate established by the federal Department of Health and Human Services or other federal agency for the subgrantee. Nothing in this section shall be construed as requiring the Office of Criminal Justice Planning to permit the use of federally approved indirect cost rates for other subgrantees of other grants administered by the office.

(f) All information and records retained by the center in the course of providing services under this chapter shall be confidential and privileged pursuant to Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code and Article 4 (commencing with Section 6060) of Chapter 4 of Division 3 of the Business and Professions Code. Nothing in this subdivision shall prohibit compilation and distribution of statistical data by the center.

SEC. 33. Section 14202 of the Penal Code is amended to read:

14202. (a) The Attorney General shall establish and maintain within the center an investigative support unit and an automated violent crime method of operation system to facilitate the identification and apprehension of persons responsible for murder, kidnap, including parental abduction, false imprisonment, or sexual assault. This unit shall be responsible for identifying perpetrators of violent felonies collected from the center and analyzing and comparing data on missing persons in order to determine possible leads which could assist local law enforcement agencies. This unit shall only release information about active investigations by police and sheriffs’ departments to local law enforcement agencies.

(b) The Attorney General shall make available to the investigative support unit files organized by category of offender or victim and shall seek information from other files as needed by the unit. This set of files may include, among others, the following:

(1) Missing or unidentified, deceased persons’ dental files filed pursuant to this title, Section 27521 of the Government Code, or Section 102870 of the Health and Safety Code.

(2) Child abuse reports filed pursuant to Section 11169.

(3) Sex offender registration files maintained pursuant to Section 290.

1 (4) State summary criminal history information maintained
2 pursuant to Section 11105.

3 (5) Information obtained pursuant to the parent locator service
4 maintained pursuant to Section 11478.5 of the Welfare and
5 Institutions Code.

6 (6) Information furnished to the Department of Justice
7 pursuant to Section 11107.

8 (7) Other Attorney General's office files as requested by the
9 investigative support unit.

10 This section shall become operative on July 1, 1989.

11 SEC. 34. Section 13377 of the Vehicle Code is amended to
12 read:

13 13377. (a) The department shall not issue or renew, or shall
14 revoke, the tow truck driver certificate of an applicant or holder for
15 any of the following causes:

16 (1) The tow truck driver certificate applicant or holder has been
17 convicted of a violation of Section 220 of the Penal Code.

18 (2) The tow truck driver certificate applicant or holder has been
19 convicted of a violation of paragraph (1), (2), (3), or (4) of
20 subdivision (a) of Section 261 of the Penal Code.

21 (3) The tow truck driver certificate applicant or holder has been
22 convicted of a violation of Section 264.1, 267, 288, or 289 of the
23 Penal Code.

24 (4) The tow truck driver certificate applicant or holder has been
25 convicted of any felony or three misdemeanors which are crimes
26 of violence, as defined in paragraph (3) of subdivision (h) of
27 Section 11105.3 of the Penal Code.

28 (5) The tow truck driver certificate applicant's or holder's
29 driving privilege has been suspended or revoked in accordance
30 with any provisions of this code.

31 (b) For purposes of this section, a conviction means a plea or
32 verdict of guilty or a conviction following a plea of nolo
33 contendere. For purposes of this section, the record of a
34 conviction, or a copy thereof certified by the clerk of the court or
35 by a judge of the court in which the conviction occurred, is
36 conclusive evidence of the conviction.

37 (c) Whenever the department receives information from the
38 Department of Justice, or the Federal Bureau of Investigation, that
39 a tow truck driver has been convicted of an offense specified in
40 paragraph (1), (2), (3), or (4) of subdivision (a), the department

1 shall immediately notify the employer and the Department of the
2 California Highway Patrol.

3 (d) An applicant or holder of a tow truck driver certificate,
4 whose certificate was denied or revoked, may reapply for a
5 certificate whenever the applicable felony or misdemeanor
6 conviction is reversed or dismissed. If the cause for the denial or
7 revocation was based on the suspension or revocation of the
8 applicant's or holder's driving privilege, he or she may reapply for
9 a certificate upon restoration of his or her driving privilege. A
10 termination of probation and dismissal of charges pursuant to
11 Section 1203.4 of the Penal Code or a dismissal of charges
12 pursuant to Section 1203.4a of the Penal Code is not a dismissal
13 for purposes of this section.

14 SEC. 35. Section 15302 of the Vehicle Code is amended to
15 read:

16 15302. No driver of a commercial motor vehicle may operate
17 a commercial motor vehicle for the rest of his or her life if
18 convicted of more than one violation of any of the following:

19 (a) Driving a commercial motor vehicle while under the
20 influence of alcohol or a controlled substance.

21 (b) Leaving the scene of an accident involving a commercial
22 motor vehicle operated by the driver.

23 (c) Using a commercial motor vehicle in the commission of
24 more than one felony arising out of separate occasions of arrest or
25 citation.

26 (d) Driving a commercial motor vehicle when the driver's
27 commercial driver's license is revoked, suspended, or canceled
28 based on the driver's operation of a commercial motor vehicle or
29 when the driver is disqualified from operating a commercial motor
30 vehicle based on the driver's operation of a commercial motor
31 vehicle.

32 (e) Causing a fatality involving conduct defined pursuant to
33 subparagraph (E) of paragraph (1) of subsection (c) of Title 49 of
34 Section 31310 of the United States Code.

35 (f) A violation of Section 2800.1, 2800.2, or 2800.3 that
36 involves a commercial motor vehicle.

37 (g) Any combination of the above violations.

38 SEC. 36. Section 1732.6 of the Welfare and Institutions Code
39 is amended to read:

1 1732.6. (a) No minor shall be committed to the Youth
2 Authority when he or she is convicted in a criminal action for an
3 offense described in subdivision (c) of Section 667.5 or
4 subdivision (c) of Section 1192.7 of the Penal Code and is
5 sentenced to incarceration for life, an indeterminate period to life,
6 or a determinate period of years such that the maximum number
7 of years of potential confinement when added to the minor's age
8 would exceed 25 years. Except as specified in subdivision (b), in
9 all other cases in which the minor has been convicted in a criminal
10 action, the court shall retain discretion to sentence the minor to the
11 Department of Corrections or to commit the minor to the Youth
12 Authority.

13 (b) No minor shall be committed to the Youth Authority when
14 he or she is convicted in a criminal action for:

15 (1) An offense described in subdivision (b) of Section 602, or

16 (2) An offense described in paragraphs (1), (2), or (3) of
17 subdivision (d) of Section 707, if the circumstances enumerated in
18 those paragraphs are found to be true by the trier of fact.

19 (3) An offense described in subdivision (b) of Section 707, if
20 the minor had attained the age of 16 years of age or older at the time
21 of commission of the offense.

22 (c) Notwithstanding any other provision of law, no person
23 under the age of 16 years shall be housed in any facility under the
24 jurisdiction of the Department of Corrections.

25 SEC. 37. Any section of any act enacted by the Legislature
26 during the 2002 calendar year that takes effect on or before January
27 1, 2003, and that amends, amends and renumbers, adds, repeals
28 and adds, or repeals any one or more of the sections affected by this
29 act shall prevail over this act, whether that act is enacted prior to,
30 or subsequent to, the enactment of this act. The repeal, or repeal
31 and addition, of any article, chapter, part, title, or division of any
32 code by this act shall not become operative if any section of any
33 other act that is enacted by the Legislature during the 2002
34 calendar year and takes effect on or before January 1, 2003,
35 amends, amends and renumbers, adds, repeals and adds, or repeals
36 any section contained in that article, chapter, part, title, or division.

